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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/171,399	10/16/1998	MASAHIRO SANO	KINOSHITACAS	7987

7590 02/22/2002

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EXAMINER
EINSMANN, MARGARET V

ART UNIT	PAPER NUMBER
1751	20

DATE MAILED: 02/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/171,399	Applicant(s) SANO ET AL.	
	Examiner Margaret Einsmann	Art Unit 1751	

--The MAILING DATE of this communication appears on the cover sh et with the correspondence address --

THE REPLY FILED 1-30-02 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on *31 December 2001*. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): *the rejection of claim 13 under 112 second paragraph*.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see attached*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *21*.

   Claim(s) objected to: _____.

   Claim(s) rejected: *12,15,19 and 20 are rejected for the reasons of record.*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Margaret Einsmann

Margaret Einsmann
Primary Examiner
Art Unit: 1751

The arguments are not persuasive and the claims remain rejected for the following reasons. Applicant argues that none of the cited references discloses a molecular weight within the range claimed, and that applicant has shown criticality in use of the specific molecular weight range because a superior moisture absorbency can be imparted to a synthetic fiber with the hydrophilic layer being very durable and having a soft feel on the fiber. The evidence of record, inventive example 7 versus comparison 19 on page 29 shows that by keeping the molecular weight within the stated range, superior properties are obtained. The comparison cited is not commensurate in scope with the claimed subject matter, nor does it compare the closest prior art. There is only one example of a protein being used, and that protein is a silk protein. The claims are not limited to silk protein containing polymers. The evidence as presented cannot be extrapolated to define a trend when the claims are so broad as to contain polymers from many different kinds of protein, protein derivatives and polysaccharides. Additionally, applicant is arguing limitations that are not in the claims. The polymers in the references are "surface treatment chemicals." All of the references teach surface treatment chemicals, all form polymerization products, all contain the reaction product as claimed. Applicant next states that none of the references discloses the molecular weight as claimed. It is well within the skill of the polymer chemist to control the molecular weight of a polymer, and applicant claims a broad molecular weight range. Additionally, Kroner et al disclose K values (molecular weight in thousands) of 23.2 K and 20.8K, just outside of the upper limit as claimed.